

POLICE/SHERIFF'S DEPARTMENT		RULES AND REGULATIONS	
SUBJECT: Sexual Harassment		NUMBER: 1-8	
EFFECTIVE DATE: July 1, 1999		REVIEW DATE:	
AMENDS/SUPERSEDES: RR 1-8, June 1988		APPROVED: _____ Chief of Police/Sheriff	
CALEA STANDARDS: 26.1.1		VLEPSC STANDARDS: PER.02.01-.03	

NOTE

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

INDEX WORDS

Discrimination
Hostile work environment
Quid pro quo harassment
Sexual harassment

I. POLICY

The department's policy is to provide a professional, businesslike work environment free from all forms of employee discrimination including incidents of sexual harassment. No employee shall be subjected to unsolicited and unwelcomed sexual overtures or conduct either verbal or physical. Note that the conduct is measured against what an objective, reasonable man or woman (depending on the sex of the complainant) perceives as harassing behavior. The harassment may involve a man against a woman, a woman against a man, or a person against another person of the same sex. The harassing behavior, to be subject to this order, need not occur only during work hours on agency premises, but may occur before or after work at other locations. Sexual harassment is misconduct and the department shall apply appropriate disciplinary sanctions.

II. PURPOSE

To define and give examples of sexual harassment, outline prohibited behavior, and describe reporting procedures.

III. DEFINITIONS

A. Sexual harassment

The Civil Rights Act of 1964 prohibits discrimination based on color, race, religion, age, national origin, and sex. Sexual harassment is a form of sex discrimination, defined as unwelcome sexual advances, requests for favors, and other verbal or physical conduct that enters into employment decisions, or conduct that unreasonably interferes with an employee's work performance or which creates an intimidating, hostile, or offensive working environment. Two kinds of sexual harassment apply, *quid pro quo* harassment and hostile work environment harassment, defined below. The two forms of harassment may overlap.

B. Quid pro quo harassment

This form of harassment occurs when an employee is being pressured to engage in sexual conduct or else lose a tangible job benefit. (*Quid pro quo* means "something for something.") This form of harassment usually occurs between a supervisor and a subordinate where the harasser has power to control the employee's work benefits or conditions. Note that this form of harassment is not limited to express demands for sexual favors, but may be implied by circumstances (e.g., offering an employee sexually explicit magazines).

1. Examples of this form of harassment include a request for sexual favors, accompanied by implied or overt threats concerning a person's employment status, or promise of preferential treatment in terms of benefits or status; granting job favors to those who participate in consensual sexual activity while penalizing those who refuse to participate; unwanted, intentional touching (patting, massaging, rubbing, hugging, pinching); telephoning or following an employee, during work hours or not, and either harassing the employee or requesting sexual favors.

C. Hostile work environment harassment

This form of harassment is **unwelcome** conduct that is so severe or pervasive as to change the conditions of the victim's employment, thus creating an intimidating, hostile, or offensive work environment.

1. A hostile environment exists when the employer tolerates unwelcome, pervasive conduct including sexual comments of a provocative or suggestive nature; jokes or innuendos intended for and directed to another employee; leaving sexually explicit books, magazines, photographs where employees will find them; unwelcome demeaning comments (such as talking about physical attributes), ridicule, offensive language, propositions or other similar actions; unwanted, unwarranted, unsolicited off-duty telephone calls and

contact; signed or anonymous notes or drawings placed on or in desks, bulletin boards, or in lockers; deliberately singling out women in front of men co-workers (or *vice versa*) and subjecting them to demeaning or derogatory remarks.

IV. PROHIBITED CONDUCT

- A. The department considers romantic relationships between supervisors and subordinates non-consensual. The department may transfer or discipline one or both participants based on operational considerations. ***[Note: Consult your legal advisor or commonwealth's attorney for a legal opinion on this prohibition. A directive on this topic would have to address married employees, especially those in a supervisor/subordinate relationship.]***
- B. Supervisors shall ensure that pornographic or suggestive photographs, illustrations, or cartoons shall not be posted or kept in any work area. Materials of this kind used for investigative purposes shall be properly secured according to evidentiary standards.
- C. Supervisors shall order employees on department premises who are making sexually hostile comments, put-downs, or degrading remarks about other persons of the same or opposite sex to cease or face discipline.
- D. Employees shall avoid physical contact with one another unless required by a training situation or police procedure. Kissing, back rubbing, embracing, and other unnecessary touching are prohibited on department premises.
- E. Personnel shall not retaliate against any person for reporting sexual harassment, giving testimony, or participating in the investigation. Retaliation in any form shall result in discipline.

V. PROCEDURES

- A. An employee who believes he or she has been sexually harassed should first tell the offender to cease the inappropriate behavior, although circumstances may not always allow the complainant to make this request. If the conduct does not stop, or if the complainant is unable to confront the offender, the complainant shall contact his or her own immediate supervisor. The employee shall submit a memorandum to the chief of police/sheriff through the chain of command detailing circumstances. If a supervisor learns of an incident of harassment, he or she shall investigate the matter even if the victim did not submit a complaint. ***[Note: If the harasser is the victim's immediate supervisor, provide an alternate method for the victim to make known his or her complaint, consistent with your agency's command structure.]***

1. If the complainant is not an employee of the department, the complaint itself is considered no less valid and shall be investigated according to the procedures set forth in this order and in RR 1-9.
 2. Employees must understand that sexual harassment can become a criminal matter. Allegations of stalking (*Virginia Code* § 18.2-60.3) and sexual battery (§ 18.2-67.4) shall be handled immediately as criminal investigations.
 3. If appropriate, the complaint may be resolved at the immediate supervisory level.
- B. When an employee reports an allegation of sexual harassment, a confidential internal investigation shall begin immediately.
1. The chief of police/sheriff shall immediately take action to limit the concerned employees from any further work contact with the alleged offender.
 2. The chief of police/sheriff shall conduct an investigation pursuant to the provisions of RR 1-7 and RR 1-9.
 3. If the sexual harassment allegation is not resolved to the satisfaction of the complainant, eligible employees may invoke the departmental grievance procedure (RR 1- 10).
- C. If the situation warrants, the chief of police/sheriff shall report such allegations to the town manager *[personnel manager, or other official appropriate for your locality]* without delay.
- D. If the allegation involves the chief of police/sheriff or similar senior official, the complainant shall present the allegation without delay to the town manager or town attorney *[or other official appropriate for your locality]*.

[Sexual harassment is a delicate, sensitive topic. Agencies must establish an on-going training program to inform all personnel about the topic. The program should review and analyze the policy and examine specific examples of harassment.]